

GRACE GRANT

IBLA 81-839

Decided October 20, 1981

Appeal from decision of Wyoming State Office, Bureau of Land Management, rejecting oil and gas lease offer W 73585.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases: Applications: Filing

A simultaneous oil and gas lease offer is properly rejected where the application is dated prior to the filing period.

2. Oil and Gas Leases: Applications: Attorneys-in-Fact or Agents--Oil and Gas Leases: Applications: Drawings

An agent's failure to ensure that an oil and gas lease application is properly dated provides no basis for accepting the offer because such action would prejudice the rights of others who properly executed their applications.

APPEARANCES: Grace Grant, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Grace Grant has appealed the June 17, 1981, decision of the Wyoming State Office, Bureau of Land Management (BLM), rejecting her simultaneously filed oil and gas lease offer W 73585 because its date did not reflect that it was signed within the filing period. The card

was filed between November 3, 1980, and November 24, 1980 -- the filing period for the November drawing. Appellant's card, however, was dated September 20, 1980.

[1] Departmental regulation 43 CFR 3112.2-1(c) provides in pertinent part: "The application shall be dated at the time of signing. The date shall reflect that the application was signed within the filing period." A simultaneously filed oil and gas lease application must be rejected if it is not properly dated. Sorenson v. Andrus, 456 F. Supp. 499 (D. Wyo. 1978), aff'g Walter M. Sorenson, 32 IBLA 345 (1977). Because appellant's offer was dated prior to the filing period and was thus in conflict with the above regulation, the offer must be rejected.

The above regulation became effective on June 16, 1980. 45 FR 35156 (May 23, 1980). The Department's reason for requiring applicants to sign their cards within the filing period is set forth in the notice in which that requirement was first proposed:

All cards must be signed within the filing period. These requirements would prevent agents from receiving pre-signed cards from their clients. Pre-signing reduces the value of the statements of qualifications contained on the card and fosters illegality. In one recent case, a pre-signed card was filed after the purported offeror had died, Estate of Charles D. Ashley, 37 IBLA 367 (1978).

44 FR 56176 (Sept. 28, 1979).

[2] In her statement of reasons, appellant states that she had repeatedly asked an individual named Chuck Walters and others whether she was executing her cards properly. She does not recall them telling her to date the card November since it was a November drawing. The context of appellant's statement of reasons makes it appear that Chuck Walters and others are private individuals who assist appellant in filing lease offers. Nevertheless, Walters' alleged failure to insure that the offer was properly executed provides no basis for awarding appellant the lease. When the Department published its regulations governing the simultaneous oil and gas leasing system, it responded to a comment which objected to the penalizing of an applicant for the activities of the applicant's filing service: "This comment was rejected because an application that is illegally filed should be rejected, whether filed by an applicant or by an applicant's agent. An applicant is responsible for the actions of the agent (filing service) he/she chooses to [employ]." 45 FR 35156, 35160 (May 23, 1980). To hold otherwise would prejudice the rights of those who submitted proper applications. See Ballard E. Spencer Trust, Inc., 18 IBLA 25 (1974), aff'd, Ballard E. Spencer Trust, Inc. v. Morton, 544 F.2d 1067 (10th Cir. 1976).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis

Administrative Judge

We concur:

Bruce R. Harris
Administrative Judge

Douglas E. Henriques
Administrative Judge.

